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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UMG RECORDINGS, INC., CAPITOL RECORDS, LLC, CONCORD BICYCLE ASSETS, LLC, CMGI RECORDED MUSIC ASSETS LLC, SONY MUSIC ENTERTAINMENT, and ARISTA MUSIC.

Plaintiffs,

V.

INTERNET ARCHIVE, BREWSTER
KAHLE, KAHLE/AUSTIN FOUNDATION,
GEORGE BLOOD, and GEORGE BLOOD
L.P..

Defendants.

Case No. 3:23-cv-06522-MMC

**DECLARATION OF ANDREW M. GASS IN
SUPPORT OF DEFENDANTS INTERNET
ARCHIVE, KAHLE, BLOOD, AND
GEORGE BLOOD L.P.'S MOTION TO
DISMISS**

Date: March 22, 2024

Time: 9:00 a.m.

Place: Courtroom 7, 19th Floor

Place: Courtroom 7, 19th Floor
Judge: Hon. Maxine M. Chesney

1 I, Andrew M. Gass, am a partner at the law firm of Latham & Watkins LLP, 505
 2 Montgomery Street, Suite 2000, San Francisco, California 94111. I am admitted to the Bar of the
 3 State of California. I submit this declaration in support of Defendants Internet Archive, Brewster
 4 Kahle, George Blood, and George Blood L.P.'s motion to dismiss Plaintiffs' complaint, filed
 5 concurrently with this declaration. I declare under penalty of perjury, pursuant to 28 U.S.C.
 6 § 1746, as follows:

7 1. Attached hereto as **Exhibit A** is a true and correct copy of the July 22, 2020, letter
 8 sent by Kenneth L. Doroshow on behalf of the Recording Industry Association of
 9 America ("RIAA") to the Internet Archive, first referenced at paragraph 80 of the
 10 complaint.

11 2. Attached hereto as **Exhibit B** is a true and correct copy of the August 21, 2020,
 12 response to the RIAA's letter sent by Brewster Kahle on behalf of the Internet
 13 Archive, referenced at paragraph 81 of the complaint.

14 3. Attached hereto as **Exhibit C** is a true and correct copy of Kelsey Kennedy, *A*
 15 *Wayback Machine for Early 20th Century Tunes*, Atlas Obscura (May 4, 2017),
 16 <https://www.atlasobscura.com/articles/internet-archive-78-records-phonograph>.

17 4. Attached hereto as **Exhibit D** is a true and correct copy of Dani Deahl, *Over 50,000*
 18 *Digitized Pieces of Vinyl Can Now Be Listened to on Internet Archive*, Verge (Aug.
 19 12, 2017), <https://www.theverge.com/2017/8/12/16126346/50000-digitized-vinyl-internet-archive-great-78-project>.

20 5. Attached hereto as **Exhibit E** is a true and correct copy of Daniel Sanchez, *30,000*
 21 *Dusty 78rpm Vinyl Records Are Now in a Digital Archive*, Digit. Music News (Aug.
 22 10, 2017), <https://www.digitalmusicnews.com/2017/08/10/78rpm-vinyl-records-digital-archive/>.

23 6. Attached hereto as **Exhibit F** is a true and correct copy of Dan DeLuca, *"The Great*
 24 *78 Project" Is Giving History Digital Life, in Chestnut Hill*, Phila. Inquirer (Sept.
 25 14, 2017), <https://www.inquirer.com/philly/entertainment/music/great-78-project-vinyl-archive-chestnut-hill-20170915.html>.

1 7. Attached hereto as **Exhibit G** is a true and correct copy of Alexa Vazquez, *The*
2 *Boston Public Library Owns 200,000 Vinyl Records—And It's Putting Them All*
3 *Online*, WBUR (Oct. 11, 2017), [https://www.wbur.org/news/2017/10/11/boston-](https://www.wbur.org/news/2017/10/11/boston-library-vinyl-records)
4 library-vinyl-records.

5 8. Attached hereto as **Exhibit H** is a true and correct copy of Joe Kukura, *Internet*
6 *Archive Trying to Digitize Every Old 78 Record in Existence*, SFist (Aug. 24, 2017),
7 https://sfist.com/2017/08/24/internet_archive_trying_to_digitize/.

8 9. Attached hereto as **Exhibit I** is a true and correct copy of Emma Taggart, *Listen to*
9 *the Sounds of the Past With Over 70,000 Digitized 78 RPM Records Online*, My
10 Modern Met (Feb. 26, 2018), [https://mymodernmet.com/78-rpm-records-digital-](https://mymodernmet.com/78-rpm-records-digital-archive/)
11 archive/.

Executed on January 26, 2024, at San Francisco, California.

By: /s/ Andrew M. Gass
Andrew M. Gass